

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JUAN MONTOYA, ET AL.,)
 Plaintiffs)
)
 v.) C. A. 10-CV-30031-MAP
)
C.R. ONSRUD, INC.,)
 Defendant)

MEMORANDUM AND ORDER REGARDING
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND
PRETRIAL SCHEDULING ORDER
(Docket No. 18)

November 23, 2011

PONSOR, D.J.

This product liability case offers claims against Defendant based upon (among other things) negligent design of its router, failure to warn, breach of implied warranty, and loss of consortium. Defendant filed a Motion for Summary Judgment (Dkt. No. 18), and the court heard argument on November 21, 2011.

As noted in greater detail at oral argument, disputed issues of fact do bar summary judgment on the claims of negligent design, failure to warn, breach of warranty, and loss of consortium. Other claims such as negligent manufacturing, negligent testing, negligent inspection, negligent distribution, or negligent servicing are either

unsupported by the record or subsumed into the counts as to which summary judgment has been denied. Thus, the Motion for Summary Judgment (Dkt. No. 18) is DENIED to the extent noted and otherwise ALLOWED.

To move the case along, the court hereby orders counsel to appear again for a final pretrial conference on December 21, 2011 at 3:00 p.m. At least five (5) days prior to the conference, counsel will file final pretrial memoranda in accordance with the attached order. Please note: failure to file a final pretrial memorandum as ordered may result in default or dismissal.

Trial in this matter will commence on February 6, 2012 at 10:00 a.m. Counsel will appear that day at 9:00 a.m. for a conference prior to commencement of jury selection. The trial will proceed thereafter from 9:00 a.m. to 1:00 p.m.

Proposed voir dire questions, proposed jury instructions and motions in limine will be filed at least ten days prior to trial.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
United States District Judge